

June 20, 2015

Via Electronic Mail to reg-comm@fca.gov

Laurie A. Rea
Director, Office of Secondary Market Oversight
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090

Cc: Tim Buzby, CEO Farmer Mac

Re: Proposed Rule: “Federal Agricultural Mortgage Corporation General Provisions; Federal Agricultural Mortgage Corporation Governance; Federal Agricultural Mortgage Corporation Risk Management; Federal Agricultural Mortgage Corporation Disclosure and Reporting; Farmer Mac Corporate Governance and Standards of Conduct”
12 C.F.R. Parts 650, 651, 653, and 655; RIN 3052-AC89, March 26, 2015

Dear Ms. Rea:

inQUEST Consulting LLC (inQUEST or we) appreciates this opportunity to comment on the above-referenced proposed rule published by the Farm Credit Administration (FCA) related to the Federal Agricultural Mortgage Corporation (Farmer Mac). As you know, inQUEST has been working with Farmer Mac for more than a year to address issues related to diversity and inclusion. During that time, Farmer Mac has made great strides in embracing the many benefits of an organization comprised of individuals with diverse backgrounds and experiences, coupled with an inclusive culture where all feel respected, valued, and free to express their ideas. Farmer Mac understands that this type of culture, where varying ideas and viewpoints are sought out and included as part of the decision-making process, sparks innovation and creativity and promotes the achievement of Farmer Mac’s business objectives and mission. Through these efforts, Farmer Mac has developed a three-year plan to incorporate diversity and inclusion principles and practices into its business operations, providing a foundation for Farmer Mac to realize its brand values, succeed in its Congressional mission, and provide return for its stockholders.

We are concerned that the proposed rule – in particular, the provisions affecting board member nomination and election – could hinder Farmer Mac’s efforts to promote diversity throughout the organization. We are also concerned that the proposed rule’s

requirements and standards for Farmer Mac’s “agents” could be construed to apply to Farmer Mac’s business counterparties and vendors, including inQUEST, and thereby expose them to new requirements as well as regulatory risk that was likely not contemplated at the outset of the business relationship with Farmer Mac. For the reasons described in more detail below, inQUEST respectfully requests that FCA withdraw the proposed rule or resubmit the proposed rule with the modifications necessary to address our concerns described in this letter.

Farmer Mac’s Board Composition

The findings of much academic research suggest that one of the best ways to enhance corporate governance is to diversify the board of directors, which is consistent with inQUEST’s experience that the best boards often are also the most diverse boards. Diverse boards bring a depth and breadth of insight, perspective, and experience to an organization that non-diverse boards often cannot match. Diversity is the collection of similarities and differences that people carry with them based on the characteristics they are born with or that they may develop, their life experiences, and the choices that they and others have made throughout their lives. Therefore, diversity includes more than age, ethnic, and gender diversity but also encompasses skills, competencies, philosophies, and life experiences. inQUEST believes that a diverse board of directors has many benefits, including fostering more effective decision making. Because diversified board members are more likely to possess different personal characteristics such as different leadership and thinking styles as well as different risk preferences, we believe that a diverse board is able to make decisions more effectively by reducing the risk of “groupthink.” This may foster creativity in solving problems and also may provide a more comprehensive oversight to the operations of an organization by enhancing sensitivity to a wider range of possible risks.

inQUEST understands that Farmer Mac seeks to identify and retain as members of its Board individuals who have the qualities, business background, and experience that will enable them to contribute significantly to the development of Farmer Mac’s business and its future success. inQUEST also understands that Farmer Mac’s board of directors believes that its membership should reflect diversity in the broadest sense, including diversity of geography, background, gender, race and ethnicity, age, and experience and training from different disciplines and industries. Farmer Mac’s ability to achieve diversity on its board is limited by the fact that five members (one-third) of Farmer Mac’s board are appointed by the President of the United States and their appointment is completely out of the control of Farmer Mac. For the remaining ten members of Farmer Mac’s board, the board has the ability to recommend diverse director candidates, but their actual election is subject to the vote of stockholders who also have the ability to nominate their own director nominees. We are concerned that some aspects of the proposed rule

could exacerbate these existing constraints and make it more difficult to achieve diversity on Farmer Mac’s board. In particular, we believe that section 651.30(c) of the proposed rule could have a negative effect on Farmer Mac’s ability to attract diverse individuals to serve on its board.

Section 651.30(c) of the proposed rule would require that each of the elected members of Farmer Mac’s board have a “recognized affiliation or relationship with their respective class of voting stockholders at the time of nomination and election.” We understand from the explanatory information accompanying the proposed rule that FCA interprets this provision as involving a “representative” relationship between a Farmer Mac director and a voting stockholder that is required to be “close” or constitute an “official affiliation” or a “substantial and visible” connection at the time of nomination and election. As a company whose board member selection process is already made narrow by the statutory requirement that only certain types of stockholders elect certain board members, Farmer Mac would likely be challenged in its efforts to add diversity to its board of directors by this restriction. Interpreting Farmer Mac’s statute in a way that would *add* restrictions to the board selection process would only exacerbate this challenge for Farmer Mac. Therefore, to the extent that such an interpretation is not required by the text of Farmer Mac’s charter and Congressional intent, we encourage FCA to consider the important policy considerations involved and to reconsider the proposed provisions related to director elections to provide more flexibility in identifying qualified candidates to enhance the diversity of Farmer Mac’s board.

Regulation of Farmer Mac’s “Agents”

We believe that the proposed rule’s application of FCA’s examination and regulatory authority to Farmer Mac’s agents (which we presume could be construed to include Farmer Mac’s consultants who provide professional services, such as inQUEST) would be overly intrusive and burdensome. We understand from Farmer Mac that the proposed rule uses an existing regulatory definition of “agent” and applies it to extensive new provisions that propose to regulate the speech and conduct of Farmer Mac’s agents, including:

- the ability for FCA to assess civil monetary penalties against agents,
- requiring agents to be available to FCA during the course of its examination of Farmer Mac,
- requiring regular conflict-of-interest disclosures from agents,
- imposing new duties on Farmer Mac’s agents related to statements “having the effect of reducing public confidence” in Farmer Mac and use of Farmer Mac information, and

- creating new prohibitions on incomplete and inaccurate disclosures by Farmer Mac's agents regardless of materiality.

These types of provisions introduce uncertainty and risk to Farmer Mac's agents. They are also similar to some ways to certain proposed contractual provisions that inQUEST routinely rejects in the course of negotiating business arrangements with counterparties because they unduly interfere with inQUEST's management of its own business activities. We believe that most of Farmer Mac's consultants and advisors were not intended by Congress to be regulated by FCA and do not have in place the compliance infrastructure necessary to comply with FCA regulation and examination. These agents are just as likely cease doing business with Farmer Mac than attempt to develop such an infrastructure. We bring to FCA's attention particularly its statement in the proposed rule regarding the rules' impact under the Regulatory Flexibility Act. We would ask FCA to reconsider whether the proposed rule's provisions related to Farmer Mac's agents would impact a substantial number of small businesses that Farmer Mac contracts with and does business with on a regular basis under the Regulatory Flexibility Act.

We appreciate the opportunity to provide comment and are available to answer any questions that you have.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Scott Hoesman".

Scott Hoesman
CEO & Founder